

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 4:15-cr-050

MICHAEL ALLEN TARVER

**AMENDED MOTION FOR ISSUANCE OF SUBPOENA DUCES TECUM**

Comes now the Defendant, Michael Allen Tarver, by and through counsel and files this his Amended Motion for the Issuance of Subpoena Duces Tecum to ProTech, LLC. In support thereof, Defendant would show the following:

1. Defendant requests all documents generated from 2012 to present on or before January 13, 2016, so counsel can prepare her case. Documents to be produced include on the Boyle-Skene Water Association Computer System the following:
2. While the Court has previously ruled adversely on this request, new information has come to light
3. The government produced what Boyle-Skene alleges to be all the minutes of the Water Association. There are several months in which Boyle-Skene claims no meeting was held.
4. During interviews (at which Mr. Mims was present) with Reginald Lucas and William Thomas, Jr. past and present Boyle-Skene Water Board Members, Lucas and Thomas verified that as required by the bylaws of the association, regular monthly meetings were held with very few if any exceptions. The information in the missing minutes addresses matters constitutionally essential to the presentation of Mr. Tarver's defense by effective assistance of counsel.

5. Mr. Tarver is forced to seek what amounts to civil production because of the nature of this case. The Government like the Defendant must rely on Boyle-Skene Water Associations assertions about what does and does not exist. **The credibility of its employees and certain board members is seriously compromised as set forth in Defendant's Motion to Exclude All 404(b) Material with Authorities.**

The government's theory is that Mr. Tarver changed the water system in retaliation for his substantial reduction in salary and other issues such as catching board members not paying for water.

It is part of the defense that Boyle-Skene set Mr. Tarver up for these charges because he caught board members and others stealing water and because he filed a civil lawsuit against the water association and board members.

6. Specifically, the minutes and other specific documents should show the motive of Boyle-Skene to falsify allegations against Mr. Tarver. According to the by-laws, details regarding expenditures, the GPS tracking device and production of any evidence to various law enforcement agencies should appear in the minutes. In requesting the backup tapes Mr. Tarver is specifically seeking the following:

- a. Any and all minutes of the Boyle-Skene Water Corporation and all documents thereto.
- b. All water testing policies and changes to same and all documents pertinent thereto.
- c. Any and all reports of breakage to any water lines and all documents pertinent thereto.
- d. Any and all notices to the public regarding boil water notices and all

documents pertinent thereto.

e. Any and all changes in policy, other than water testing policies and all documents pertinent thereto, including but not limited to changes in shut off period for non payment of bill.

f. Any and all information regarding the EPA and all documents pertinent thereto.

g. Any and all policies related to billing and collection and all documents pertinent thereto.

h. Any and all information regarding overhead and expenditures including salaries.<sup>1</sup>

7. Mr. Tarver seeks production of the backup tape under a gag order or alternatively an in camera review for the specific information sought.

7. The information sought is exculpatory and crucial to the defense of the case under the Fourth, Fifth, Sixth and Fourteenth Amendments.

8. Favorable information includes both “exculpatory” and “impeaching” information. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Strickler v. Green*, 527 U.S. 263, 281-282 (1999).

Notice of this Motion is being served on Boyle-Skene Water Association by agreement through its attorney.

WHEREFORE PREMISES CONSIDERED, the Defendant respectfully requests that this Motion for Issuance of Subpoena Duces Tecum to ProTech, LLC, and considered by this

Honorable Court an Order be issued granting the Issuance of a Subpoena Duces Tecum for all

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<sup>1</sup> The defendant is entitled to this information through production of requested 501(3)(c) documents. The information has not been produced. A copy of the letter sent to Boyle-Skene is attached hereto as Exhibit “A”.

requested records from ProTech, LLC.

This the 5<sup>th</sup> day of January, 2016.

Respectfully submitted,  
MICHAEL TARVER  
DEFENDANT

BY: /s/ Cynthia A. Stewart  
Cynthia A. Stewart

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**CERTIFICATE**

I, Cynthia A. Stewart, do hereby certify that I have this day caused to be filed a true and correct copy of the foregoing document using the Court's CM/ECF system, which sent a true and correct copy of the same to all counsel of record.

**SO CERTIFIED**, this the 5<sup>th</sup> day of January, 2016.

/s/ Cynthia A. Stewart

Cynthia A. Stewart